

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

ADRIANA “ADDIE” RYANN KILLAM,	)	
	)	CASE NO. C16-0494RSM
Plaintiff,	)	
	)	MINUTE ORDER
v.	)	
	)	
WILLIAM GUIMONT,	)	
	)	
Defendant.	)	

The following MINUTE ORDER is made by direction of the Court, the Honorable Ricardo S. Martinez, Chief United States District Judge:

On April 6, 2016, Plaintiff filed her Complaint in the instant matter. Dkt. #1. Plaintiff alleges violations of the Americans with Disabilities Act and the Washington Law Against Discrimination. *Id.* Summons was electronically issued by the Court on April 8, 2016. Dkt. #4. As of this date, Plaintiff has not filed any proof of service of the Complaint on Defendant, and Defendant has not yet appeared.

On April 27, 2016, Plaintiff filed a motion for summary judgment. Dkt. #7. That motion is currently noted for consideration on May 20, 2016. *Id.* There is no certificate of service attached to the motion.

Although Rule 56 allows a motion for summary judgment to be filed “at any time until 30 days after the close of all discovery,” the Rule contemplates that the opposing party have the opportunity to pursue discovery prior to responding to a motion for summary judgment. *See*

1 Fed. R. Civ. P. 56(d). In this case, it is not clear whether Defendant has even been served with  
2 a copy of the Complaint or the motion, Defendant has not appeared, a Scheduling Order has not  
3 yet issued and discovery has not yet commenced. Until such time as Defendant has the  
4 opportunity to review the Complaint and at least contemplate conducting discovery, Plaintiff's  
5 motion is premature. *See, e.g., Burlington N. Santa Fe R.R. Co. v. Assiniboine & Sioux Tribes*  
6 *of Fort Peck Reservation*, 323 F.3d 767, 773 (9th Cir. 2003) (stating that when "a summary  
7 judgment motion is filed so early in the litigation, before a party has had any realistic  
8 opportunity to pursue discovery relating to its theory of the case," district courts should permit  
9 discovery to be taken prior to considering motion for summary judgment).  
10

11 After an Answer is filed, and a Joint Status Report is received, the Court will issue a  
12 Scheduling Order, which will include a deadline for the filing of dispositive motions, and  
13 Plaintiff can re-file her motion for summary judgment at an appropriate time.  
14

15 Accordingly, the Court STRIKES Plaintiff's Motion for Summary Judgment (Dkt. #7)  
16 as premature.  
17

18 **Plaintiff SHALL serve a copy of this Order on Defendant, and shall FILE proof of**  
19 **such service with the Court.**

20 DATED this 27<sup>th</sup> day of April, 2016.

21 WILLIAM McCOOL, Clerk

22 By: /s/ Rhonda Stiles  
23 Deputy Clerk  
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